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Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Report on the visit of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to Mali* **

* In accordance with the decision of the Subcommittee at its fifth session regarding the processing of its visit reports, the present document was not edited before being sent to the United Nations translation services.

** In accordance with article 16, paragraph 1, of the Optional Protocol, this report was transmitted confidentially to the State party on 3 September 2012. The State party announced its decision to publish this report on 18 March 2014, in accordance with article 16, paragraph 2, of the Optional Protocol.

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I. Introduction

1. The Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment undertook its first regular visit to Mali between 5 and 14 December 2011, in accordance with the provisions of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. During its visit, the Subcommittee met with the authorities of Mali, the National Human Rights Commission and representatives of civil society, and made visits to places of deprivation of liberty in the district of Bamako and in the regions of Kayes, Koulikoro, Sikasso and Ségou.

2. During the visit, which was limited in scope and duration, it was not possible to cover all places of deprivation of liberty in Mali, partly because of the deteriorating security situation in certain regions. Nevertheless, the Subcommittee was able to obtain an overall picture of conditions in the country, leading it to conclude that the situation of persons deprived of their liberty is of grave concern.

3. The confidential preliminary observations were submitted orally at the conclusion of the visit, on 14 December, and submitted again in writing to the State party on 27 January 2012. The present report is the confidential final report of the visit of the Subcommittee to Mali.

II. Reports, facilitation of the visit and cooperation

A. Obligation to submit reports on the implementation of the Convention

4. The Subcommittee notes that Mali has not yet submitted either its initial report under article 19 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which was due for submission in 2000, or the subsequent periodic reports. This not only represents a serious failure on the part of Mali to comply with its treaty obligations, but also makes it difficult for the Convention's monitoring bodies, including the Subcommittee, to cooperate with the national authorities. Furthermore, it did not facilitate the visit, since the Subcommittee was unable to benefit from information on the implementation of the Convention that Mali should have been submitting regularly to the Committee against Torture.

5. **The Subcommittee recommends that the State party submit its reports to the Committee against Torture as soon as possible, in conformity with its obligations under the Convention, in particular article 19, paragraph 1.**

B. Facilitation of the visit and cooperation

6. Various documents and information were supplied to the Subcommittee before its visit, enabling it to make certain minimum preparations. Nonetheless, the majority of the documents and information requested prior to the visit and at various meetings during the visit, in particular during consultations with the Government and representatives of the judicial system on 5 December 2011, were not supplied until well after the visit, on 15 January 2012. The information supplied was incomplete and fragmentary. This deprived the Subcommittee of key information that would have enabled it to undertake a wholly satisfactory visit.

7. According to information supplied by the State party, a good number of responses were incomplete or inadequate due to the lack of available statistical data. The Subcommittee regretted in particular the absence of information on incidents of violence among detainees and on complaints, investigation, prosecutions and convictions for acts of torture or ill-treatment.

8. The Subcommittee wishes to thank the liaison officer, Mr. Boubacar Sidiki Samaké, technical adviser at the Ministry of Justice, and the authorities for their help during the visit, especially in providing the official authorizations requested by the Subcommittee. As a result, in most cases it was easy to gain access to places of deprivation of liberty.

9. In general, the Subcommittee was able to visit prisons and undertake its work in a satisfactory manner, notably through fully confidential private interviews with persons deprived of their liberty, although an abnormally high number of detainees refused to meet with the Subcommittee. In two specific cases, however, access was refused to cells of the State security service in Bamako, on 7 December, and to cells in Bamako Central Prison during attempted follow-up visits on 13 and 14 December, despite the efforts of the liaison officer and the insistence of the Subcommittee.

10. During the first two visits to Bamako Central Prison, on 6 and 7 December, the prison authorities had attempted to hide the reality of conditions and to prevent the Subcommittee members from meeting with all the detainees and interviewing them. Certain detainees were moved from the prison after the first visit to prevent the Subcommittee from interviewing them the following day, as had been arranged in agreement with the prison management. A list of these detainees was requested but, despite the Subcommittee's strong insistence, it was not provided by the prison management, which was also unable to convincingly explain the transfer of the detainees or why a list of those who had been transferred could not be made available. Such behaviour is a serious matter and is a breach of the obligations under the Optional Protocol.

11. The Subcommittee also notes that the Government of Mali has not responded to its preliminary confidential observations, even prior to the period of instability following the coup d'état. Nonetheless, the Subcommittee hopes to be able to continue its dialogue with the State party on the issues raised and the recommendations put forward in the present report.

12. **The Subcommittee considers it highly desirable that in future the authorities take the necessary measures to enable the Subcommittee to carry out its mandate in full, in line with the international obligations freely undertaken by the State party.**

III. National preventive mechanism

13. The Subcommittee takes note of the establishment of a national preventive mechanism but expresses its concern that the State party has assigned this function to the National Human Rights Commission in the circumstances observed by the delegation. The Subcommittee considers the present structure to be unsatisfactory, particularly due to its lack of independence and the absence of funding.

14. Under article 18 of the Optional Protocol, States Parties are required to guarantee the functional independence of national preventive mechanisms and their personnel. They undertake to provide for and make available the necessary resources for the functioning of the national preventive mechanisms in accordance with the Paris Principles. Nonetheless, the Subcommittee noted that the structure of the national preventive mechanism in Mali did not allow it to act independently, free of interference from the State authorities, particularly the prison authorities and the police. Indeed, the national preventive mechanism's

composition, functioning and lack of financial independence to fully carry out its mandate do not comply with either the Paris Principles or article 18 of the Optional Protocol. It is truly unfortunate that the national preventive mechanism was unable to arrange visits to places of detention outside the district of Bamako, due to a lack of financial and logistic resources. The Subcommittee emphasizes that it tried to contact the national preventive mechanism to follow up its visit, notably regarding the question of possible reprisals, but received no response.

15. The Subcommittee recommends that the authorities take all necessary measures to bring the national preventive mechanism into conformity with the Paris Principles, as required by the Optional Protocol and the Subcommittee's guidelines on national preventive mechanisms, particularly by allocating it an adequate budget.

IV. Key challenges and recommendations

A. Fundamental safeguards

16. The Subcommittee notes that the criminal legislation in force in Mali provides important safeguards against torture and cruel, inhuman or degrading treatment, including provisions concerning limitations on the duration of police custody, the requirement to inform the detainee's family of his or her detention, the power vested in the public prosecutor and the investigating judge to visit detention centres and assess the legality and conditions of detention, the right of access to a lawyer and a doctor, and the obligation to keep official registers of arrests. Nonetheless, during its visit, the Subcommittee noted a systematic failure to implement these fundamental guarantees as established in the texts. The Subcommittee is concerned that the current institutional framework in Mali is unable to offer sufficient safeguards of the fundamental rights established in Malian law to effectively prevent possible acts of torture and ill-treatment, including those resulting from the widespread corruption affecting the justice system.

Right to be informed of one's rights and the reason for one's arrest

17. The persons interviewed by the Subcommittee indicated that they had not been notified of their rights on their arrest, even though this is one of the essential safeguards for any person detained.[1] Furthermore, the Subcommittee was itself able to note the systematic absence of adequate information on the basic rights of persons who have been arrested, and particularly of noticeboards or posters bearing such information in gendarmerie and police stations. On the other hand, the majority of those interviewed had been informed of the reasons for their arrest.

18. **The Subcommittee recommends that the State party ensure that instructions are issued to all officers responsible for making arrests to the effect that persons deprived of their liberty must be effectively and systematically informed of their rights orally and in writing, in a language that they understand immediately on their arrest. These procedures should be duly recorded.**

[1] Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, adopted by the General Assembly of the United Nations, resolution 43/173 of 9 December 1988, Principle 13 (hereinafter Body of Principles).

Right to inform a third party of one's detention

19. The right to inform a third person of one's arrest is a fundamental safeguard against torture and ill-treatment.[2] However, the Subcommittee was informed by the detainees that it met that they were generally not able to contact their family or a close friend about their arrest, sometimes due to a lack of available facilities in the police and gendarmerie stations, but in certain cases because of the arbitrary refusal of the authorities to grant their request.

20. **The Subcommittee recommends that the authorities take the necessary measures, including the provision of equipment and funding, to ensure that all persons detained are able to inform their relatives or friends of their detention, and that the information is duly recorded in the custody register (person contacted, date and time).**

Right of access to a lawyer and the legal assistance system

21. The right of persons who have been arrested to have access to a lawyer of their choice, enshrined in article 9 of the Constitution of Mali, is not implemented in practice. Almost none of the persons held in police custody or pretrial detention whom the delegation met had seen a lawyer at any point in the legal process, because they were unable to pay the fees. Thereby, the access to free legal assistance provided by the law is not implemented on the ground. It appears from the accounts gathered by the Subcommittee that, in the best case scenario, officially assigned counsel, if appointed, only become involved when a criminal case reaches the Assize Court, and not during the investigation stage. This situation is no doubt linked to the general shortage of lawyers throughout the country and exacerbated by their concentration in the district of Bamako, which leaves entire regions without counsel. The disproportionate ratio of members of the judiciary to lawyers (two members of the judiciary for every lawyer) in the country is evidence of the lack of lawyers in most regions.

22. **The Subcommittee recommends that the authorities guarantee access to a lawyer to all persons from the moment they are taken into custody and throughout legal proceedings,[3] particularly by establishing an effective mechanism to provide free legal assistance. The authorities should consider measures to increase the number of lawyers trained in the country each year and to encourage them to establish themselves in the different regions of the country, and allocate an adequate budget for the free legal assistance system.**

Right to medical examination

23. Interviews with detainees and law enforcement personnel, examination of the custody registers and the systematic absence of medical registers in police and gendarmerie stations made it clear that the right of access to a doctor, although enshrined in article 76 of the new Code of Criminal Procedure, is not implemented in practice. No medical examination is performed when persons are taken into custody or placed in detention, although medical examinations and adequate documentation of the injuries presented by persons deprived of their liberty are indispensible safeguards to prevent torture and ill-treatment, and also contribute to combating the impunity of perpetrators.[4]

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[2] Committee against Torture, general comment No. 2, CAT/C/GC/2, para. 13; Body of Principles, Principle 16.

[3] Committee against Torture, op. cit.

[4] Standard Minimum Rules for the Treatment of Prisoners, rule 24 (Standard Minimum Rules); Body of Principles, Principle 24.

24. **The Subcommittee recommends that a medical examination be performed on all persons arrested as soon as possible after they are brought into custody, especially if they show signs of ill-health, whether ensuing from their arrest or not. These medical examinations should be free and should be performed in accordance with the Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol).**

Right to notify consular authorities of detention

25. The Subcommittee met numerous foreigners among the prison population, many of whom came from the countries bordering Mali. The great majority of them stated that they had not been able to communicate with the consular authorities of their countries, or even to contact their families in their countries of origin. As a consequence, they had not benefitted from the consular protection provided for foreigners deprived of their liberty,[5] and it appears that any request of this nature is systematically refused by the authorities.

26. **The Subcommittee recommends that the authorities take the necessary measures to ensure that consular authorities are systematically notified of the detention of one of their citizens and that the information is duly recorded in the custody register (person contacted, date, time).**

Duration of custody

27. The Subcommittee also noted that, frequently, the period of custody of persons arrested was wrongfully extended in most police and gendarmerie stations, with no record of the date and time of the commencement of custody, or no official authorization to extend custody. It appeared that, in most cases, the public prosecutor's authorization to extend custody beyond 48 hours was given orally, in breach of article 76 of the Code of Criminal Procedure. The lack of written evidence of such authorization made it almost impossible to check the validity of custody. The Subcommittee also observed that it was standard practice to keep any person arrested on Friday in custody over the weekend, since he or she could not be presented to the public prosecutor or the public prosecutor's office at the weekend. The maximum length of custody is therefore regularly exceeded. Examination of the registers also made it clear that while many persons are held in custody, few actually come before a judge, which could indicate a systematic recourse to custody during investigation without real justification. In this regard, the very large number of persons placed in custody as part of a simple identity check procedure or arrested without justification is significant and raises particular concern.

28. **The Subcommittee recommends that the maximum length of custody and related extension procedures, as provided for by Malian law, be strictly observed by police and gendarmerie officers, and that the judicial authorities undertake effective and regular monitoring in this regard of both the length of custody and the justification for it. The keeping of related registers should also be improved (see paragraphs 73–77 below).**

Use of pretrial detention

29. The Subcommittee found that pretrial detention is frequently used in breach of Malian law, often lasting well in excess of the legally permissible maximum of 3 years (article 135 of the Code of Criminal Procedure). The Subcommittee even encountered three cases of persons who had been *held in pretrial detention for 8 years* and numerous cases of

[5] Body of Principles, Principle 16.

persons detained for more than 5 years without a valid committal warrant. It appears that the files for some of these cases have quite simply been lost and that the persons concerned are now in a legal limbo, since they have no hope of being either tried or freed. In many cases, sentences are handed down de facto, before the accused has even been tried. Observing the presumption of innocence and not sentencing detainees until they have been tried are requirements in every State governed by the rule of law. The tendency to place persons in detention while awaiting trial, including for minor misdemeanours such as the theft of telephone cards, mobile phones, property, etc., is one of the main causes of prison overcrowding in Mali (see paragraphs 47–48 below), since almost 60 per cent of the country's prison inmates are being held in pretrial detention. Furthermore, the Subcommittee noted that pretrial detainees do not possess a copy of their committal warrant, which is kept by the issuing judge. The length of detention is monitored by prison staff and cannot be checked by the detainee, who is not informed in writing of the date of his or her next court appearance. The Subcommittee also noted the absence of oversight by the judges concerned of the enforcement of sentences since they rarely visited the prisons.

30. **The Subcommittee recommends:**

(a) The use of pretrial detention only in cases of the most serious offences and crimes, possibly taking due account of repeat offences, and the systematic use in other cases of alternatives to deprivation of liberty, as set forth in the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules)[6] and in application of article 128 of the Code of Criminal Procedure;

(b) Monitoring by the courts of persons in pretrial detention in order to ensure that they are not held for longer than is legally permissible, and an immediate review of the cases of all persons who have been in pretrial detention for more than 3 years, in application of article 135 of the Code of Criminal Procedure. Furthermore, persons who are sentenced should receive ongoing monitoring by the courts to guarantee adherence to the duration of the deprivation of liberty;

(c) The release of anyone who has been in pretrial detention for a period equal to or greater than the maximum possible prison sentence for the offence that led to the person's detention.

Complaints mechanism

31. The Subcommittee did not hear of any official complaints mechanism in the places of detention visited, as demonstrated by the silence of detainees and the prison authorities on this topic. The only way to lodge a complaint appears to be through the system of cell and yard bosses, about which the Subcommittee has numerous reservations (see paragraphs 57–60 below).

32. **The Subcommittee recommends that all detainees be notified of their right to submit direct, confidential complaints to the competent prison authorities and to higher ranking authorities. Any person detained must be notified of this right in a language that he or she understands at the time of detention. Furthermore, noticeboards and posters bearing information on the matter should be put in visible places around the establishment. The Subcommittee recommends that the right to lodge complaints be guaranteed in practice and that complaints be forwarded to the competent authorities without restriction, promptly considered and a decision be made and communicated to the complainant without delay. Persons who have lodged complaints should not suffer reprisals or the threat of reprisals. The competent**

[6] Adopted by the General Assembly of the United Nations in resolution 45/110 of 14 December 1990.

authorities should establish a register of complaints received, recording the nature of the complaint, the establishment where it originated, the date of receipt, the date and nature of the decision made, and the subsequent action taken. These registers should be checked regularly by an independent body.

Other concerns

33. During its visit to places of detention, the Subcommittee noted certain practices that raised serious concerns, especially the frequent use of police custody in civil debt cases. These are officially and improperly treated as fraud or misappropriation in the official registers, whereas in reality it is a matter of exerting pressure on debtors to pay their debts and the police or gendarmerie officers involved typically receive a share of the amount recovered by the creditor. This practice is a breach of article 123 of the Code of Criminal Procedure and the objectives of detention in custody as stated in legislation. In one gendarmerie station the Subcommittee even found an official register of debtors held in custody. Finally, the Subcommittee is also perturbed by the clearly disproportionate sentences imposed on some prisoners for certain recognized misdemeanours and offences – a 3-year prison term for the theft of a mobile phone, for example.

34. **The Subcommittee recommends that the authorities ensure police and gendarmerie officers are duly notified of the illegality of the practice of imprisonment for civil debt and the sanctions potentially incurred. Furthermore, the strengthened monitoring of custody by the judicial authorities (see paragraph 27 above) should also take into account this practice, with the aim of its elimination. The Subcommittee recommends that the authorities review the Code of Criminal Procedure and the maximum sentences incurred for minor misdemeanours and offences.**

B. Access to health care

35. Access to health care in places of deprivation of liberty is guaranteed by Malian law, although no specific organization exists to meet health-care needs in custody or prison establishments. Health care is primarily dispensed through improvised local arrangements and relies on the goodwill of staff and financial support from the families of detainees.

36. In the police and gendarmerie stations visited, the Subcommittee noted an almost complete lack of registers for medical visits. According to the persons interviewed, no medical examination is provided to detainees at the commencement of their time in custody or on their entry into prison. With the exception of the Bollé women's prison, no medical files are kept, which prevents the medical supervision of detainees.

37. Most of the prisons visited had no infirmary, medical clinic or medical personnel. In the few prisons that do have an infirmary, the obvious lack of resources makes it impossible to care for the sick properly. Indeed, the only medication given out is paracetamol, which is unsuitable for treating the most widespread needs (skin problems, infections, parasites, gastroenterological problems and neurological problems linked to vitamin deficiencies). None of the prisons provided special equipment for persons with disabilities. The only medical conditions actually treated in the prison system are malaria and tuberculosis, although treatment of the latter is often unsatisfactory. Other medical care, including inpatient care, is at the expense of the families of detainees. Only a few treatments are covered by the prisons' utterly inadequate social budget (approximately US$ 2,000 per year for Bamako Central Prison) on the basis of rather unclear criteria. In view of the prison population and the lack of regular care, the number of temporary transfers for medical treatment is rather low. Indeed, the Subcommittee met numerous persons who were dying due to the lack of adequate medical care.

38. **The State party should ensure that detainees are able to access health care in conformity with the Standard Minimum Rules for the Treatment of Prisoners and should therefore immediately increase the budget allocated to detainees' health. The purchase of medications and detainees' hospital fees should be covered by the prison authorities. The State party should take the necessary measures to ensure that every prison has regular access to the services of a dentist and a qualified doctor, who should examine each detainee as soon as possible after his or her admission and monitor the physical and mental health of detainees, particularly by establishing medical files for each person committed to prison.[7] The State party should ensure that persons with disabilities are held in decent conditions appropriate to their disabilities.**

C. Gendarmerie and police stations

39. With regard to the material conditions of detention, the Subcommittee observed that most cells do not meet the relevant international standards: toilets and showers are unsanitary or non-existent; and some lack light and ventilation, while others offer no shelter from the elements, particularly the wind and the cold; in general they often have neither mattresses nor mats and persons held in police custody sleep on the floor, often without even blankets at night.

40. Numerous police and gendarmerie stations lack the wherewithal, in particular the means of transport, to conduct investigations. None have a budget for feeding persons held in custody. As a result, persons held in custody frequently have their food, and sometimes water, paid for by officers in charge, or they go without for days – particularly if they have no family close to the place of their detention. The Subcommittee does, however, note that the Bamako Vice Squad, responsible for the protection of minors, functions satisfactorily.

41. The Subcommittee noted that the gendarmerie and police posts did not always have women's cells, much less cells for the custody of minors.

42. **The Subcommittee recalls that the State party has a duty to ensure that the material conditions of police custody are adequate for all detainees, and to provide them with food and water, in accordance with the Standard Minimum Rules for the Treatment of Prisoners.[8] Furthermore, the Subcommittee recommends that the State party develop a cell modernization programme in conformity with international standards.**

D. Prisons

43. The Subcommittee visited 13 prisons in the district of Bamako and the regions of Koulikoro, Kayes, Ségou and Sikasso. The Subcommittee realizes that they account for only a portion of the 59 penitentiary establishments in the country, but they present a broad range in terms of size (one prison holds 1,600 inmates while others hold only a few dozen), structure (ranging from early twentieth-century establishments to facilities opened in 2009) and the composition of the prison population (prisons for all inmate categories, women's

[7] Approved by the Economic and Social Council in its resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977.

[8] See Rules 22 to 25. Adopted by the first United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held in Geneva in 1955 and approved by the Economic and Social Council in its resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977.

prisons, juvenile prisons and a prison farm). Above all, together they account for approximately 60 per cent of the country's total prison population.

Material conditions

44. The conditions of detention in all the establishments visited are deplorable. Most are dilapidated, date from colonial times, and are poorly maintained and totally unfit for use as places for the deprivation of liberty. In most cases, the cells are poorly ventilated and can thus be extremely hot, especially where they have a metal roof. Not even a minimum of light, whether natural or artificial, is provided and the cells do not have adequate indoor sanitary facilities. Moreover, detainees sleep, at best, on simple mats or dirty old mattresses. The sole exception in this regard is Ségou prison, where, thanks to the initiative of a private individual, the material conditions have been improved with the installation of running water and toilets in each room and the construction of a veranda in the yard where inmates can shelter from the sun.

45. The provision of soap, the only hygiene product distributed to detainees, is insufficient and irregular. Some inmates spend weeks or even months without soap and can therefore neither wash themselves nor do their laundry properly. Indeed, afflictions such as scabies and other parasites and skin diseases are common among prison inmates.

46. It is a source of concern that the same shortcomings observed in older prisons affect even recently opened facilities like the new wing of Bougouni prison, which has been operational since 2009 and where the cells have no sanitary facilities and are poorly ventilated, the courtyard is too small for the number of inmates and the security installations are inadequate (there is no watchtower and the walls are too low).

47. At Koulikoro, the fact that two detention wings with vastly different material conditions can be found in the same penitentiary establishment is hard to justify. Rwandan prisoners convicted by the International Criminal Tribunal for Rwanda are housed in a wing with highly satisfactory material conditions, including individual cells with toilets and air conditioning, a sports room, shops for personal necessities, a library, an infirmary, a room set aside for religious services, and externally contracted cooks. At the same time, detention conditions in the other wing for ordinary Malian convicts are appalling.

48. **The State party should, as a matter of urgency, make arrangements to inspect the country's prisons with a view to drawing up and implementing a plan to improve and standardize conditions in all prison cells and thus ensure that the rights of all detainees to decent conditions as regards ventilation, sanitary facilities, lighting and other services are respected and eliminate opportunities for putting pressure on inmates or extorting money from them. As the initiative taken by the private individual at Ségou prison shows, relatively modest outlays can significantly improve conditions of detention, and the Subcommittee recommends that the State party increase and guarantee NGO access to prisons.**

Overcrowding

49. The rate of overcrowding is extremely high and the problem is endemic in all the establishments visited. For example, the population of Bamako Central Prison is 300 per cent of capacity, and the ratio exceeds even 400 per cent in other prisons. This situation is directly linked to the particularly high number of persons held in pretrial detention, sometimes for as long as several years just for minor offences. The Subcommittee considers that such a degree of overcrowding amounts to cruel, inhuman and degrading treatment, or even a form of torture when it is prolonged for months or years and combined with the lack of minimum acceptable material conditions, especially in the case of pretrial detention. The overcrowding is made all the more intolerable by the fact that all the prisons visited contain

both shockingly overcrowded cells and others of the same size with far fewer inmates. The placement of detainees in cells where conditions are less appalling is decided not on the basis of objective, official criteria but rather in return for a certain sum paid to prison staff, in other words, on the basis of corruption. The crowding and arbitrary decisions on cell placement combine to exacerbate tension among detainees and between detainees and staff, with a serious impact on discipline.

50. **The Subcommittee does not recommend the wholesale construction of new prisons but rather the implementation of the measures outlined in paragraph 30 of this document and the bringing of places of detention into line with the Standard Minimum Rules for the Treatment of Prisoners, thereby ensuring respect for the dignity of detainees.**

Prison regime

51. The prison regime is totally arbitrary and riddled with corruption. Detainees systematically have to pay for their basic rights: the right to receive visits (1,000 CFA francs per visit), the right to receive food from the outside (500 to 1,000 CFA francs), the right to leave one's cell and walk in the exercise yard (around 10,000 CFA francs) and sometimes even the right not to be beaten. Detainees who do not pay never leave their cell, sometimes for several years, except to use the toilet once or twice a day, which constitutes cruel, inhuman and degrading treatment. Certain "privileges" may also be bought: avoiding placement in an overcrowded cell (around 50,000 CFA francs); the right to leave the punishment cell (around 15,000 CFA francs); sleeping in a better part of the cell (around 6,000 CFA francs); use of a prison warder's mobile telephone (around 5,000 CFA francs), and so on. The similarity of the amounts paid in all the prisons visited tends to confirm that they are genuine and demonstrates that this kind of corruption is entrenched in the prison system.

52. **The State party should take, as a matter of urgency, the measures needed to ensure that every detainee has access to the open air and to exercise (one hour of exercise in the open air daily is the international minimum rule on the matter),[9] outside the time required each day for washing and using the toilet. The State party must also eradicate corruption by punishing perpetrators and informing detainees and their families of their rights.**

53. Disciplinary measures are also applied in an arbitrary fashion, without any set criteria, monitoring or record of their application. In some prisons, the delegation found that prisoners considered likely to try to escape were locked in their cells throughout the day. The situation is worsened by the poor security arrangements in some prisons (such as walls that are too low or the lack of a watchtower or an outer wall), prison staff shortages, lack of training and the absence of security equipment.

54. **The Subcommittee recommends that the State implement a prisons policy guaranteeing the rights of detainees and that it adopt an official disciplinary regime so that prison management is not left to the whim of prison directors or yard bosses. Similarly, the State should provide prison staff with a minimum of training and the material wherewithal to carry out their tasks effectively and respect human rights. All places of detention should keep a special register of disciplinary measures that records the inmate's name, the offence committed, which person in authority imposed the measure, the date and hour at which the measure began and ended, and, if applicable, the approval of the decision and the measure by a second person in authority.**

[9] Rule 20 (1), Standard Minimum Rules for the Treatment of Prisoners.

Food

55. The provision of food is one of the greatest causes of concern in Mali's prisons. The delegation found individuals dying of starvation, particularly in San, Kayes and Diéma, and others suffering from serious illnesses induced by malnutrition, such as scurvy and beriberi. Food provided consists solely of millet or corn as a staple and, once a week, rice or beans. Detainees do not receive fruit, vegetables, meat or fish except on rare occasions such as certain religious feast days. The extremely poor diet is the direct cause of numerous illnesses suffered by detainees. The situation is all the more shocking given that, as the delegation discovered, many prisons have vegetable gardens and livestock, but almost exclusively for the benefit of prison staff.

56. **The State party must ensure that the quantity and quality of food distributed in prisons conform to the relevant international standards and must increase the food budget for each and every inmate without delay. The Government must ensure that fruit and vegetables are included in the prisoners' diet and that detainees benefit from the produce of the prisons' vegetable gardens and livestock operations.**

Separation of detainees

57. The separation of detainees by category does not follow a set standard in the prisons visited. In some, specific sections with generally better material conditions of detention are set aside for women (juveniles and adults), who also have free access to the exercise yard set aside for them. In prisons without separate quarters, women are either locked all day in the cell set aside for them or spend the day in the same exercise yard as male detainees under the supervision of a prison warder. Generally, juveniles are not housed separately from adults. The delegation also found that, in reality, there is no attempt to separate convicts from persons being held in pretrial detention. All this is very serious.

58. **The State party must ensure that different categories of detainee are separated, in conformity with the Standard Minimum Rules for the Treatment of Prisoners.**

Internal management

59. The internal management of many prisons is left to the prisoners themselves, following a well established hierarchy of cell bosses and a yard boss aided by deputies. In some cases, warders do not enter the prison itself and leave its day-to-day management, including entry to the prison compound and cells, entirely to the inmates. The cell and yard bosses in each prison thus enjoy considerable privileges with regard to the conditions of their custody.

60. The lack of supervision by the prison authorities means that power is in the hands of the strongest or richest inmates, who wield it arbitrarily against weaker and poorer inmates. This system of self-management also means that all communication between inmates and the prison authorities passes through, and is filtered by, the cell and yard bosses, making it impossible for inmates to file complaints against them. Moreover, discipline and disciplinary punishment are often directly administered by inmates, which leads to constant abuses, ill-treatment and corruption, even though discipline should remain at all times in the hands of the prison authorities and be implemented with the associated safeguards, which include ensuring that it is administered transparently, that all punishments are recorded and that inmates can file complaints.

61. A certain degree of self-management by inmates can be beneficial so long as it does not take the place of the management that the prison administration in general, and the prison director in particular, are responsible for providing. A self-management system unsupervised by the prison authorities is not acceptable.

62. **Although systems based on inmate self-management offer certain advantages, the Subcommittee recommends that official recognition be given to the role of cell and yard bosses to ensure that they are appointed on the basis of clear and transparent criteria and given a specific mandate. The prison authorities must closely supervise the cell and yard bosses (for whose acts they are ultimately responsible) because only the authorities are entitled to order and carry out disciplinary punishments. Tasks associated with the exercise of official power must continue to be carried out by prison staff. The Subcommittee also recommends that a clear and efficient procedure be established whereby inmates can file requests or complaints directly with the competent authorities. In addition, the authorities should ensure that all detainees are treated on an equal basis and that the advantages granted to cell and yard bosses do not exceed those that can reasonably be considered necessary for them to be able to discharge their duties.**

Prison activities

63. Most inmates do not have the opportunity to engage in any kind of organized physical or intellectual activity, whether in terms of leisure, work, vocational training or education. Inmates in a small number of prisons keep themselves busy by making small handicraft items for sale. According to the testimony gathered, however, in some cases, inmates must pay for the right to engage in such activities, and in others, they are not paid for what they produce, and the proceeds of sales are pocketed by the warders. Social workers and assistants do little, when they are present at all.

64. Only inmates assigned to labour duties, such as those on kitchen, gardening or cleaning duty, have a real occupation. The delegation found that some inmates are sent out of prison to work privately for other institutions or prison staff, for instance doing laundry or gardening, which opens the door to possible abuses.

65. **The State party has an obligation to ensure that prison inmates engage in a minimum of activity and, in particular, that those not assigned to labour duties are granted an hour a day of exercise in the open air, as set forth in the Standard Minimum Rules for the Treatment of Prisoners. The State must encourage prison labour with a view to training and rehabilitating prisoners and must ensure that inmates receive reasonable remuneration for their work.**

E. Prison farm

66. Of the four prison farms in the country, the Subcommittee was able to visit only one, at Baguinéda. Although this open prison facility has room for nearly 35 inmates, it housed only 8 (5 were assigned to labour duties outside the prison), for whom there were 9 guards. Although the facilities for guards and inmates are in poor condition, the establishment has potential. Most of the farm equipment is out of order and production is therefore so limited that it only provides enough for the prison farm itself, but in the past it supplied other establishments too.

67. **The Subcommittee urges the Government to adopt the necessary measures to enable these prison farms to fulfil their role in training prisoners who might benefit from an open system of detention and to facilitate the rehabilitation and social reintegration of such prisoners at the end of their sentence. This would also alleviate prison overcrowding to a certain extent. Moreover, if operated properly, the prison farms could become a less expensive source of food supplies for prisons and help improve the quality of the prisoners' diet.**

F. Psychiatric service

68. The delegation found that the psychiatric unit at the Point G Hospital, which is the only one in the country, takes a generally satisfactory and innovative approach to treatment of the mentally ill and that its staff are competent and motivated. An open-door policy is applied to patients, who are free to move about the establishment. In emergencies, patients are placed in solitary confinement but they are never restrained and a daily record on them is kept by the unit's doctors. The consent of the patient is always sought, which explains why there are very few forced hospitalizations. The rare cases of forced hospitalization that do exist are monitored by the unit's doctors, not the judicial authorities. As a rule, patients are always accompanied by a family member, which appears to have a positive effect on their treatment and, above all, facilitates their return to family and community life and prevents families from "off-loading" their mentally ill relatives. The only negative aspects observed by the Subcommittee were that families bear the entire cost of the medication used in treatment, and the inexplicable case of four chronic patients who were fed by the hospital but were left to live amid the rubbish in an old shed. The hospital does not have the capacity to receive all psychiatric cases, including the most severe ones among the prison population, which means that for these cases there is no real provision in the country.

69. **The State party should ensure that chronically ill patients are lodged in decent conditions and that the hospital assumes responsibility for their medical treatment. It should also study the possibility of having a special procedure for handling the chronically ill and the most serious psychiatric cases, including among the prison population.**

G. Staff

70. The Subcommittee interviewed the persons in charge and staff members in all the places of deprivation of liberty it visited. It found that some prisons are understaffed and that staff members lack training. Moreover, although paid regularly, they do not receive any bonus payments for the prolonged working hours. Some prisons do not have proper offices or temporary accommodation for staff that stay overnight. The paucity of resources and material allocated to them mean that police and gendarmerie stations and prisons are ill-equipped to fulfil their tasks properly.

71. The Subcommittee also noted that prison staff receive no specific training and no independent body inspects their work.

72. The Subcommittee also found that staff safety is compromised in several prisons by poor installations (walls that are too low, the lack of watchtowers, and so on) and the lack of proper surveillance equipment. The Subcommittee found that staff members do not receive any in-service training.

73. **The Subcommittee recommends that the authorities improve staff working conditions, allocate sufficient funds and equipment to the various establishments in question, and provide staff with adequate training to enable them to carry out their duties properly. The Subcommittee recommends that the authorities take the necessary measures to improve the working conditions and security of staff, especially in prisons. A human rights training programme should be introduced for law enforcement officers and prison staff.**

74. **The Subcommittee urges the State party: to draw up an attractive career plan for those responsible for implementing custodial measures; to establish an independent inspection body; and to request assistance and cooperation from the specialized agencies of the United Nations for modernizing the prison system.**

H. Registers

75. The Subcommittee found that the records kept on detainees or persons held in police custody vary from one place of deprivation of liberty visited to another. Apart from those kept in Bollé Specialized Detention Centre for Women, the registers need to be standardized and significantly improved. Moreover, the information contained in the various registers (custody, prison and transfer registers) does not match.

76. Sometimes several registers had to be consulted to determine the situation of a single detainee. Since the information is not digitalized, it cannot be easily or quickly accessed or used. The Subcommittee also noted that not all registers are completed and signed regularly and that many useful records, such as records of deaths, transfers to hospital or other prisons, disciplinary punishments, visits by court officials, etc. are not always available.

77. As far as police station registers are concerned, in violation of article 77 of the Code of Criminal Procedure, arrival and departure times of persons taken into custody are not always recorded, thus making it difficult to monitor whether the legal limit on periods of pretrial detention is respected.

78. In the case of prison registers, the absence of copies of warrants of committal makes it impossible to monitor any extensions of pretrial detention. The registers only record the date on which detention started, not the date the prisoner was sentenced. The officer in charge of the registers only has the committal order issued by the judge, which contains no information about future court appearances or the sentence. Most persons in pretrial detention do not know when they will be brought before a judge.

79. **The Subcommittee recommends the standardization and, if possible, centralization and digitalization of the register system in order to facilitate effective monitoring of the legality of pretrial detention. The Subcommittee also recommends the establishment of a register to record extensions of police custody, as well as registers of medical examinations, transfers, visits by court officials, family visits, foreigners and cases of death. The Subcommittee recommends that the authorities ensure the enforcement of article 77 of the Code of Criminal Procedure.**

I. Torture and ill-treatment

Prisons

80. The Subcommittee encountered numerous cases of ill-treatment and some instances of torture in all the prisons it visited, over and above those caused by the appalling material conditions of detention and extreme overcrowding. They are generally the result of disciplinary measures carried out either by prison staff or by inmates (cell or yard bosses) with the warders' approval and usually take the form of severe beatings with whips, belts, metal cables, rubber straps, canes, poles, etc. Other forms of torture and ill-treatment are used, such as being put in the stocks or forced to remain in painful positions for protracted periods. Such punishment is generally inflicted in front of the other inmates as a deterrent against such offences as stealing other inmates' meals, violence, fighting and attempts at escape.

81. In many prisons, torture or ill-treatment can be avoided if the inmates pay the warders a certain sum, which varies according not only to the punishment in question but also to the inmate's financial situation. In some of the establishments visited, the Subcommittee heard accounts of inmates being threatened with beatings if they did not pay a certain amount. In others, the Subcommittee heard allegations of "preventive" beatings being carried out to maintain prison discipline.

82. According to some accounts, prisoners are even forced to help inflict punishment. Given that, in general, warders have left the task of maintaining discipline to cell and yard bosses, it is the latter who decide in an arbitrary fashion what punishment should be administered and by whom. The State party is directly responsible for this situation, since it is the State officials in charge of these establishments who fail to protect the victims and do not punish the perpetrators, who act with their tacit or explicit consent.

83. Protracted solitary confinement is also used as a means of punishing prisoners, including by cell and yard bosses. Another very common form of punishment is to chain prisoners by the feet and hands both in solitary confinement and ordinary cells. These forms of torture and ill-treatment can last for several weeks, even months, which is wholly unacceptable, and also seem to be administered in a completely arbitrary manner. The Subcommittee also heard eyewitness reports of prisoners dying of injuries caused by the above-mentioned ill-treatment and acts of torture. The failure to keep a register of disciplinary measures allows the perpetrators to act with total impunity and serves only to exacerbate the arbitrary abuse of power.

84. According to the information obtained, it is clear that the acts of torture and ill-treatment are invariably associated either with maintaining discipline among the inmate population, which is necessary due to the lack of resources allocated to security, among other reasons, or with the corruption that is widespread in the prison system. The importance of the human factor should not be underestimated, however, since many prisoners indicated that the more or less violent disposition of the warders and other prison staff, but above all of the prison director, largely determined the degree of violence to which inmates were subjected. The arrival of a new director could dramatically increase or decrease the level of violence.

Police and gendarmerie stations

85. It is important to note that the majority of cells in the police and gendarmerie stations that were visited either had few inmates or were empty, which stands in contrast with the overcrowding in prisons. The Subcommittee was apprised of cases of torture and ill-treatment inflicted on persons held in custody in police and gendarmerie stations in order to extract confessions. That information was obtained from prison inmates, not during the brief interviews held in the police and gendarmerie stations. The allegations of torture and ill-treatment are similar and always consistent: persons held in custody are tortured in order to extract confessions before they are presented before the court. Numerous reports were received from witnesses of detainees arriving in prison with serious injuries that were the result of having been tortured. The lack of basic rights as detailed above in paragraphs 16 to 34 only serves to encourage such practices.

86. **The Subcommittee recalls that, under article 2 of the Convention, no circumstances may be invoked as a justification of torture or ill-treatment. The State party must therefore take all possible measures to stop all ill-treatment and torture of detainees, in prisons as well as in police and gendarmerie stations, in particular by firmly condemning all such acts and establishing a legal framework in accordance with the State's international obligations to prosecute the perpetrators of such acts.**

87. **The Subcommittee underscores the importance of the training of law enforcement personnel, civil or military, especially those involved in the custody, interrogation or treatment of detainees and stresses that, under articles 10 and 11 of the Convention, the State party has the obligation to ensure that education and information regarding the prohibition of torture are fully included in the training of such personnel and that interrogation instructions and practices, as well as arrangements for the custody of detainees, are in accordance with the Convention.**

88. **The Subcommittee also recalls the Code of Conduct for Law Enforcement Officials, adopted by the United Nations General Assembly in resolution 34/169 of 17 December 1979, and the Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa (the Robben Island Guidelines), adopted by the African Commission on Human and Peoples' Rights in October 2002.**

J. Impunity

89. The Subcommittee is of the view that impunity is one of the key factors behind the continued use of ill-treatment and torture, which undermines the rule of law and weakens institutions, at the same time creating a propitious climate for such practices. No statistics have been provided regarding officials brought to justice but it is clear that the failure to prosecute the perpetrators of ill-treatment and acts of torture perpetuates a culture of tolerance and impunity towards abuses committed by them.

90. **The situation observed by the Subcommittee is one of total impunity for the perpetrators of acts of torture and ill-treatment, which, given the scale of such acts, is wholly unacceptable. The situation will not improve so long as the perpetrators are not held responsible for their actions in accordance with the Convention. The State party must act immediately in accordance with Malian law and its international obligations.**

K. System of complaints and visits and inspection of places of detention

91. In theory, persons in detention have the right to lodge complaints, especially in respect of ill-treatment or poor conditions of detention. However, that right is not regulated and detainees have no choice but to approach the prison director or his or her staff, more often than not via the cell or yard bosses. In its visits to various places of detention, the Subcommittee found no trace of complaints by detainees in registers, either in prisons or in police or gendarmerie stations, which supports the conclusion that there is in fact no institutionalized complaints system.

92. The Subcommittee also found only few signs that visits or inspections to places of detention had been made by the Ministry of Justice, members of the judiciary, the national preventive mechanism or non-governmental organizations, which is particularly serious given the situation in such places, especially in the prisons.

93. In the light of these observations, the Subcommittee reminds the State party that all prison sentences must be implemented in accordance with the law, that pretrial detention must be a measure of last resort, that imprisonment for failure to pay a debt is prohibited and that one of the objectives of prison sentences is the subsequent reintegration of the detainee into civilian life, principles which an effective complaints and inspection system could help reinforce.

94. **The Subcommittee recommends that the authorities urgently establish a system in which confidential complaints can be lodged with an independent body outside the prison administration that gives them proper follow-up. All complaints of poor detention conditions or ill-treatment and torture must be investigated promptly, impartially and effectively, including through the prosecution of the perpetrators of such acts, in conformity with articles 12 and 13 of the Convention. This will also make it possible to combat impunity effectively.**

L. Reprisals

95. On the whole, persons deprived of their liberty were frightened to speak freely with the Subcommittee. They clearly expressed their fear of reprisals. Several detainees said that they would certainly be beaten, placed in solitary confinement or subjected to other ill-treatment after the Subcommittee's visit for having spoken to members of the Subcommittee. Some also told the Subcommittee of the warnings and intimidation that they had received from warders and squad chiefs, designed to dissuade them from talking to the Subcommittee.

96. Warnings of reprisals had clearly been issued in several prisons, including Bamako prison, where the Subcommittee gathered statements from witnesses to that effect. The Subcommittee reported the matter to the Ministry of Justice and to the focal point for the visit, as well as in the preliminary observations submitted to the Government on 14 December 2011, and expressed its concern about the risk of reprisal facing the detainees and staff who had communicated with the Subcommittee.

97. **The Subcommittee wishes to remind the State party that all forms of intimidation and reprisals against persons deprived of their liberty constitute violations of its obligations under the Optional Protocol. In accordance with article 15 of the Optional Protocol, the Subcommittee requests that the authorities of Mali ensure that no reprisals are exacted after its visit. The Subcommittee requests that the State party provide detailed information on the steps taken to prevent and hinder the taking of reprisals against staff members or detainees who spoke to members of the Subcommittee.**

V. Conclusions

98. The Subcommittee recalls that this report represents only the first stage of a constructive dialogue with the Malian authorities on the above-mentioned challenges.

99. **The Subcommittee requests the Malian authorities to reply, within six months, with details of the measures taken by the State party to follow up on its recommendations. The State party is asked to respond to the specific requests for information made by the Subcommittee in this report and to authorize its publication.**

Annex

Places of deprivation of liberty visited by the Subcommittee

I. Prisons

1. Bamako Central Prison
2. Bollé Specialized Detention and Rehabilitation Centre for Women
3. Bollé Specialized Detention and Rehabilitation Centre for Juveniles
4. Koulikoro prison and correctional centre
5. Ségou prison and correctional centre
6. Kita prison and correctional centre
7. Kayes prison and correctional centre
8. Bafoulabé prison and correctional centre
9. Diéma prison and correctional centre
10. San prison and correctional centre
11. Sikasso prison and correctional centre
12. Bougouni prison and correctional centre
13. Baguinéda prison farm
14. International Criminal Tribunal for Rwanda wing for Rwandan prisoners, Koulikoro prison and correctional centre

II. National Gendarmerie

1. Judicial investigation unit, Camp I, Bamako
2. Search brigade, Camp I, Bamako
3. Kayes brigade
4. Ségou brigade
5. Koutiala brigade
6. Koulikoro brigade
7. Kita brigade

III. Police

1. Third District police station, Bamako
2. Koulikoro police station
3. First District police station, Kayes
4. Second District police station, Kayes

5. First District police station, Sikasso
6. Second District police station, Sikasso
7. San police station
8. Koutiala police station
9. Vice squad responsible for the protection of minors, Bamako

IV. Military prisons

1. Military camp, Camp I, Bamako
2. Military camp, eighth military region, Sikasso

V. Psychiatric service

Point G Hospital psychiatric unit, Bamako